

# PATENT COOPERATION TREATY

## PCT INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

10/518700

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FINAL CHECK		

Applicant's or agent's file reference 100712-1 WO	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/SE 2003/001045	International filing date (day/month/year) 18.06.2003	Priority date (day/month/year) 20.06.2002
International Patent Classification (IPC) or national classification and IPC C07C 253/00, C07C 255/57, C07C 255/52, C07C 233/67, C07C 233/65, C07D 309/38		
Applicant AstraZeneca AB et al		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
  - a. ☐ (sent to the applicant and to the International Bureau) a total of \_\_\_\_\_ sheets, as follows:
    - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
    - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) \_\_\_\_\_, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:
 

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand  22.12.2003	Date of completion of this report  11.02.2004
Name and mailing address of the IPEA/SE Patent- och registreringsverket Box 5055 S-102 42 STOCKHOLM Facsimile No. +46 8 667 72 88	Authorized officer  Gerd Strandell/ELY Telephone No. +46 8 782 25 00

Form PCT/IPEA/409 (cover sheet) (January 2004)

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## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/SE 2003/001045

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ the international application as originally filed/furnished
- ☐ the description:
- pages \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ the claims:
- pages \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ the drawings:
- pages \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 9

because:

☐ the said international application, or the said claims Nos. \_\_\_\_\_  
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. \_\_\_\_\_  
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported  
by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 9

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the  
Administrative Instructions in that:

the written form

☐

has not been furnished

☐

does not comply with the standard

the computer readable form

☐

has not been furnished

☐

does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with  
the technical requirements provided for in the Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/SE 2003/001045

## Box No. IV Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.  
☐ paid additional fees.  
☐ paid additional fees under protest.  
☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:

- ☐ complied with.  
☒ not complied with for the following reasons:

According to Rules 13.1, 13.2 and 13.3 an international application shall relate to one invention only or to a group of inventions linked by one or more of the same or corresponding "special technical features", i.e. features that define a contribution which each of the inventions makes over the prior art. In order to fulfil the requirements of unity of invention, it is necessary that the intermediate compounds are closely interconnected with the end products as well as with themselves. Such close connection requires that the essential structural part of the end product is incorporated by the intermediate. However, the present application lacks a single general inventive concept based on the above principle. This leads to the presence of the subjects listed below, each falling under its own restricted inventive concept.

1. Claims 1-8 and 10. Process for preparing compounds of formula (I), intermediates of formula (12) and preparation thereof, intermediates of formulae (20), (18) and (63).

2. Claim 9. Intermediate of formula (27).

4. Consequently, this report has been established in respect of the following parts of the international application:

- ☐ all parts.  
☒ the parts relating to claims Nos. 1-8, 10

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/SE 2003/001045

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	<u>1-8, 10</u>	YES
	Claims		NO
Inventive step (IS)	Claims	<u>1-8, 10</u>	YES
	Claims		NO
Industrial applicability (IA)	Claims	<u>1-8, 10</u>	YES
	Claims		NO

## 2. Citations and explanations (Rule 70.7)

The opinion given is based on what is searched. Confer Box No. III and Box No. IV in this report and PCT Rule 66.1(e).

Documents cited in the International Search Report:

D1: J. Med. Chem., Vol 45, no. 18, 2002, Jeffrey S. Albert et al: "Design, Synthesis, and SAR of Tachykinin Antagonists: Modulation of Balance in NK1/NK2 Receptor Antagonist Activity", page 3972 - page 3983; page 3973, Scheme 2; page 3980 - page 3981, nos. 18-20

D2: WO 0177069 A1 (ASTRAZENECA AB), 18 October 2001 (18.10.01), page 15, line 19 - page 16, line 14

D3: WO 0059873 A1 (ASTRAZENECA AB), 12 October 2000 (12.10.00), page 13, line 19 - page 14, line 15

The cited documents represent the general state of the art. The invention defined in claims 1-8 and 10 is not disclosed by any of these documents.

The cited prior art does not give any indication that would lead a person skilled in the art to the claimed process for the preparation of 3-cyano-1-naphthoic acid and some analogues thereof, the intermediate 1-halo-3-cyano naphthalene and some analogues thereof used in this process and a process for the preparation of said intermediate. Therefore, the claimed invention is not obvious to a person skilled in the art. Accordingly, the invention defined in claims 1-8 and 10 is novel and is considered to involve an inventive step. The invention is industrially applicable.